

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

v.

EDGAR JAMAL GAMORY

also known as

J.B.,

Defendant.

CRIMINAL FILE NO.

1:08-CR-153-1-TWT

ORDER

This is a criminal action. It is before the Court on the Report and Recommendation [Doc. 332] of the Magistrate Judge recommending denying the Defendant's Motion to Vacate Sentence, Motion for New Trial and Motion to Compel [Doc. 320]. The Defendant's Objections to the Report and Recommendation are without merit. The testifying co-conspirators all testified under oath at trial that they had not been promised anything by the Government but that they hoped that they would benefit from their testimony by receiving more favorable sentences. None of the witnesses have recanted their testimony. I have carefully reviewed the affidavits attached to the Defendant's Motion to Vacate Sentence. The affidavits are from mutual friends of the witnesses and the Defendant. They purport to relate jailhouse

telephone conversations some time after the Defendant's trial in which two of the witnesses complain about getting too much time to serve after their cooperation with the Government. Statements such as this – even if admissible – that someone “promised” them a lesser sentence than they got are inherently unreliable and unbelievable in light of their sworn testimony before me in the trial of the case. There is not a scintilla of evidence in the record that the Assistant United States Attorney who tried this case engaged in prosecutorial misconduct, or presented testimony that she knew or later learned was false. Thus, there is no need for an evidentiary hearing in this matter. The Eleventh Circuit has already held that the evidence of the Defendant's guilt was overwhelming and it was. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Defendant's Motion to Vacate Sentence, Motion for New Trial and Motion to Compel [Doc. 320] are DENIED. The request for a Certificate of Appealability is DENIED.

SO ORDERED, this 6 day of August, 2013.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge